

## SENATE BILL NO. 345

INTRODUCED BY MANGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO THE URBAN RENEWAL AND TAX INCREMENT FINANCING; ~~AUTHORIZING THE DISPOSITION OF REAL PROPERTY TO PRIVATE INTERESTS AFTER A PUBLIC HEARING~~; ALLOWING THE GOVERNING BODY OF A MUNICIPALITY TO RETAIN CERTAIN LOAN FUNDS RELATED TO A TERMINATED TAX INCREMENT FINANCING PROVISION FOR THE PURPOSES OF THE URBAN RENEWAL PLAN; PROVIDING FOR AGREEMENTS ESTABLISHING A MINIMUM MARKET VALUE FOR PROPERTY TAX PURPOSES OF CERTAIN PROPERTY IN AN URBAN RENEWAL AREA; ALLOWING FOR AN ADJUSTMENT TO BASE TAXABLE VALUE; ESTABLISHING A COUNTY TAX DEFICIENCY LIEN; ~~AND AMENDING SECTIONS 7-15-4263, 7-15-4292, AND 7-15-4293, AND 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE; AND PROVIDING AN EFFECTIVE DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1.~~ Section 7-15-4263, MCA, is amended to read:

~~"7-15-4263. Procedure to dispose of property to private persons. (1) A municipality may dispose of real property in an urban renewal area to private persons only under reasonable procedures as it shall prescribe or as provided in this section.~~

~~(2) (a) A municipality shall by public notice invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area or any part of an urban renewal area may:~~

~~(i) BY PUBLIC NOTICE, INVITE PROPOSALS FROM AND MAKE AVAILABLE ALL PERTINENT INFORMATION TO PRIVATE REDEVELOPERS OR ANY PERSONS INTERESTED IN UNDERTAKING THE REDEVELOPMENT OR REHABILITATION OF AN URBAN RENEWAL AREA OR ANY PART OF AN URBAN RENEWAL AREA; OR~~

~~(ii) enter into a development agreement with respect to the use of tax increment funds and FOR the acquisition, sale, lease, or transfer and development of a parcel of land REAL PROPERTY that is located in an urban renewal area and that the private entity owns or has an exclusive option to purchase, without public bidding. The agreement may only be entered into after a public hearing as provided in this section.~~

~~\_\_\_\_\_ (b) The notice OF THE REQUEST FOR PROPOSALS OR of THE public hearing must be published as provided in 7-1-4127, and the public hearing must be conducted prior to approval by the governing body of the execution of any agreement to use the tax increment funds or any contract or deed to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance under the provisions of 7-15-4262 through 7-15-4266.~~

~~\_\_\_\_\_ (c) (i) The notice must:~~

~~\_\_\_\_\_ (A) identify the area or portion of the area;~~

~~\_\_\_\_\_ (B) identify the proposed purchaser, vendee, or lessee;~~

~~\_\_\_\_\_ (C) identify the nature of the proposed redevelopment or use of the property; and~~

~~\_\_\_\_\_ (D) must state that any further information that is available may be obtained at the office designated in the notice.~~

~~\_\_\_\_\_ (ii) All interested persons are entitled to provide comments orally or in writing, and the public hearing may be continued from time to time without additional published notice.~~

~~\_\_\_\_\_ (3) The municipality shall consider the comments and other information presented at the public hearing and other information that the local governing body considers relevant, including information regarding the financial and legal ability of the private person to carry out the redevelopment or rehabilitation proposal all redevelopment or rehabilitation proposals and the financial and legal ability of the persons making the proposals to carry them out. The After consideration, the municipality may accept those proposals as ACCEPT A PROPOSAL AND enter into development or redevelopment and other contracts and agreements and make dispositions of real property to private persons that it considers to be in the public interest and in furtherance of the purposes of this part and part 43. Thereafter, the The municipality may execute, in accordance with the provisions of 7-15-4262 and 7-15-4264, and deliver contracts, deeds, leases, and other instruments of transfer.~~

~~\_\_\_\_\_ (4) The terms of any lease must be fixed by the municipality, and the lease may provide for renewals or an option to purchase the property at fair value as provided in 7-15-4262(3).~~

~~\_\_\_\_\_ (5) If an approved project requires or contemplates construction of public improvements financed by a tax increment as an integral part of the structure or facilities to be constructed by a private developer, the municipality may enter into an agreement with the developer's general contractor to construct the public improvements as part of the project if:~~

~~\_\_\_\_\_ (a) the developer's contractor is licensed and bonded in Montana and is acceptable to the municipality; and~~

~~\_\_\_\_\_ (b) the contractor agrees to competitively bid and pay the prevailing wage for all subcontract work on the entire project."~~

**Section 1.** Section 7-15-4292, MCA, is amended to read:

**"7-15-4292. Termination of tax increment financing -- exception.** (1) The tax increment provision terminates upon the later of:

(a) the 15th year following its adoption ~~or, if the tax increment provision was adopted prior to January 1, 1980, upon the 17th year following adoption;~~ or

(b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has been pledged and the interest on the bonds.

(2) ~~(a) Any~~ Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve fund after termination of the tax increment provision must be distributed among the various taxing bodies in proportion to their property tax revenue from the district.

~~(b) Upon termination of the tax increment provision, a municipality may retain and use in accordance with the provisions of the urban renewal plan:~~

~~\_\_\_\_\_ (i)(I) funds remaining in the special fund or a reserve fund related to a binding loan commitment, construction contract, or development agreement for an approved urban renewal project that a municipality entered into before the termination of a tax increment provision;~~

~~\_\_\_\_\_ (ii) loan repayments received after the date of termination of the tax increment provision from loans made pursuant to a binding loan commitment; or~~

~~\_\_\_\_\_ (iii) funds from loans previously made pursuant to a loan program established under an urban renewal plan~~

~~(II) LOAN REPAYMENTS RECEIVED AFTER THE DATE OF TERMINATION OF THE TAX INCREMENT PROVISION FROM LOANS MADE PURSUANT TO A BINDING LOAN COMMITMENT; OR~~

~~(III) FUNDS FROM LOANS PREVIOUSLY MADE PURSUANT TO A LOAN PROGRAM ESTABLISHED UNDER AN URBAN RENEWAL PLAN.~~

~~(C) THE USE OF REPAYMENTS OR THE USE OF FUNDS FROM LOANS UNDER SUBSECTIONS (2)(B)(II) OR (2)(B)(III) MUST TERMINATE NO LATER THAN 30 YEARS FROM THE DATE OF THE ADOPTION OF THE TAX INCREMENT PROVISIONS.~~

(3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value of the taxable property in the urban renewal area or the industrial district and must be paid into the funds

1 of the respective taxing bodies.

2 (4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th  
3 anniversary of tax increment provisions adopted after January 1, 1980, and the 17th anniversary of tax increment  
4 provisions adopted prior to January 1, 1980. However, if bonds secured by a tax increment provision are  
5 outstanding on the applicable anniversary, additional bonds secured by the tax increment provision may be  
6 issued if the final maturity date of the bonds is not later than the final maturity date of any bonds then outstanding  
7 and secured by the tax increment provision."

8  
9 **Section 2.** Section 7-15-4293, MCA, is amended to read:

10 **"7-15-4293. Adjustment of base taxable value following change of law.** (1) If the base taxable value  
11 of an urban renewal area or an industrial district is affected after its original determination by a statutory,  
12 administrative, or judicial change in the method of appraising property, the tax rate applied to it, the tax  
13 exemption status of property, or the taxable valuation of property if the change in taxable valuation is based on  
14 conditions existing at the time the base year was established, the governing body of the municipality may request  
15 the department of revenue ~~or its agents~~ to estimate the base taxable value so that the tax increment resulting  
16 from the increased incremental value is sufficient to pay all principal and interest on the bonds as those  
17 payments become due.

18 (2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the  
19 governing body of a municipality may REQUEST THE DEPARTMENT OF REVENUE ~~OR ITS AGENTS~~ TO adjust the base  
20 taxable value to account for a loss of taxable revenue resulting from the state granting property in the district  
21 tax-exempt status within the first year of creation of the tax increment financing district. The municipality shall  
22 give notice of and hold a public hearing on the proposed change."

23  
24 **SECTION 3.** SECTION 15-10-420, MCA, IS AMENDED TO READ:

25 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a  
26 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount  
27 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3  
28 years. The maximum number of mills that a governmental entity may impose is established by calculating the  
29 number of mills required to generate the amount of property tax actually assessed in the governmental unit in  
30 the prior year based on the current year taxable value, less the current year's value of newly taxable property,

1 plus one-half of the average rate of inflation for the prior 3 years.

2 (b) A governmental entity that does not impose the maximum number of mills authorized under  
3 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between  
4 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill  
5 authority carried forward may be imposed in a subsequent tax year.

6 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate  
7 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using  
8 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

9 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional  
10 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including  
11 newly taxable property.

12 (3) (a) For purposes of this section, newly taxable property includes:

13 ~~(a)~~(i) annexation of real property and improvements into a taxing unit;

14 ~~(b)~~(ii) construction, expansion, or remodeling of improvements;

15 ~~(c)~~(iii) transfer of property into a taxing unit;

16 ~~(d)~~(iv) subdivision of real property; and

17 ~~(e)~~(v) transfer of property from tax-exempt to taxable status.

18 (b) Newly taxable property does not include an increase in value that arises because of an increase in  
19 the incremental value within a tax increment financing district.

20 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the  
21 release of taxable value from the incremental taxable value of a tax increment financing district because of:

22 (i) a change in the boundary of a tax increment financing district;

23 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

24 (iii) the termination of a tax increment financing district.

25 (b) If a tax increment financing district terminates prior to the certification of taxable values as required  
26 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment  
27 financing district terminates. If a tax increment financing district terminates after the certification of taxable  
28 values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax  
29 year.

30 ~~(b)~~(c) For the purpose of subsection ~~(3)(d)~~ (3)(a)(iv), the subdivision of real property includes the first

1 sale of real property that results in the property being taxable as class four property or as nonagricultural land  
2 as described in 15-6-133(1)(c).

3 ~~(c) For the purposes of this section, newly taxable property does not include an increase in appraised~~  
4 ~~value of land that was previously valued at 75% of the value of improvements on the land, as provided in~~  
5 ~~15-7-111(4) and (5), as those subsections applied on December 31, 2001.~~

6 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

7 (a) school district levies established in Title 20; or

8 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits  
9 excluded under 2-9-212 or 2-18-703.

10 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes  
11 received under 15-6-131 and 15-6-132.

12 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may  
13 increase the number of mills to account for a decrease in reimbursements.

14 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for  
15 purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills  
16 calculated by the department may not exceed the mill levy limits established in those sections. The mill  
17 calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of  
18 mills, then the calculation must be rounded up to the nearest whole mill.

19 (9) (a) The provisions of subsection (1) do not prevent or restrict:

20 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

21 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

22 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

23 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes  
24 actually assessed in a subsequent year.

25 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,  
26 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the  
27 airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated  
28 operating funds by a county or municipality during that time.

29 (11) The department may adopt rules to implement this section. The rules may include a method for  
30 calculating the percentage of change in valuation for purposes of determining the elimination of property, new

improvements, or newly taxable property in a governmental unit."

**NEW SECTION. Section 4. Assessment agreements.** (1) A municipality may enter into a written assessment agreement with any private person:

(A) establishing a minimum market value of land, existing improvements, or improvements or equipment to be constructed or acquired; and ~~located or installed in an urban renewal area or industrial district that is subject to a tax increment financing provision if the property is owned or will be owned by the private person. The minimum market value established by an assessment agreement may be fixed or increase or decrease in later years from the initial minimum market value as provided in the agreement. If an agreement is fully executed before January 1 of an assessment year, the market value as provided under the agreement must be used by the state, county, or city officers responsible for assessing and determining the taxable value of taxable property within the urban renewal area or the industrial district. Agreements executed on or after January 1 of an assessment year become effective for assessment purposes in the following assessment year. An assessment agreement terminates on the earliest of:~~

~~—— (a) the date on which conditions in the assessment agreement for termination are satisfied;~~

~~—— (b) the termination date specified in the agreement; or~~

~~—— (c) the date when tax increment is no longer paid to the municipality under 7-15-4292.~~

~~—— (2) The assessment agreement must be presented to the state, county, or city officers responsible for assessing and determining the taxable value of the taxable property subject to the agreement. The officers shall review the plans and specifications for the improvements to be constructed or the equipment to be acquired, review the market value previously assigned to the land upon which the improvements are to be constructed or equipment is to be located, and if the minimum market value contained in the assessment agreement appears, in the judgment of the officers, to be a reasonable estimate, execute the following certification upon the agreement: "The undersigned officers, being legally responsible for the assessment of the described property, certify that the market values assigned to the land, improvements, and any equipment are reasonable."~~

~~—— (3) The assessment agreement must be filed and recorded in the office of the county clerk and recorder of each county where the real estate or any part of the real estate is situated. After the agreement becomes effective for assessment purposes, the state, county, or city officers responsible for assessing and determining the taxable value of the taxable property shall value the taxable property subject to the agreement in accordance with applicable law, except that the market value assigned may not be less than the minimum market value~~

1 established by the assessment agreement. The officers may assign a market value to the property in excess  
2 of the minimum market value established by the assessment agreement.

3 ~~———— (4) The owner of the property identified in the assessment agreement may seek, through the exercise  
4 of administrative and legal remedies, a reduction in market value for property tax purposes, but a state, county,  
5 or city officer responsible for assessing and determining the taxable value of taxable property, a board of review,  
6 a tax appeal board, or a court may not grant a reduction of the market value below the minimum market value  
7 established by the assessment agreement during the term of the agreement filed of record, regardless of actual  
8 market values that may result from incomplete construction of improvements or installation of equipment,  
9 destruction, or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition  
10 of the property by a public body. Recording an assessment agreement constitutes notice of the agreement to  
11 anyone who acquires any interest in the land, improvements, or equipment that is subject to the assessment  
12 agreement, and the agreement is binding upon the person acquiring the interest.~~

13 ~~———— (5) An assessment agreement may be modified or terminated by mutual consent of the current parties  
14 to the agreement. Modification or termination of an assessment agreement must be approved by the local  
15 governing body of the municipality. A document modifying or terminating an agreement must be filed of record.  
16 A change to an assessment agreement that is not fully executed before January 1 of an assessment year is not  
17 effective for assessment purposes for that assessment year. If an assessment agreement has been modified  
18 or prematurely terminated, a private person may seek a reduction in market value or tax through the exercise  
19 of any administrative or legal remedy. The remedy may not provide for reduction of the market value below the  
20 minimum provided under the modified assessment agreement.~~

21 (B) REQUIRING THE INDIVIDUAL TO PAY AN ANNUAL TAX DEFICIENCY FEE WHENEVER THE PROPERTY THAT IS THE  
22 SUBJECT OF THE AGREEMENT IS VALUED BY THE DEPARTMENT OF REVENUE FOR PROPERTY TAX PURPOSES AT A MARKET  
23 VALUE THAT IS LESS THAN THE VALUE ESTABLISHED BY THE AGREEMENT. THE AMOUNT OF THE DEFICIENCY FEE MAY NOT  
24 EXCEED THE DIFFERENCE BETWEEN THE PROPERTY TAXES THAT WOULD HAVE BEEN IMPOSED ON THE PROPERTY BASED  
25 ON THE MINIMUM VALUE OF THE PROPERTY EXPRESSED IN THE AGREEMENT AND THE PROPERTY TAXES THAT ARE IMPOSED  
26 ON THE PROPERTY BASED ON THE MARKET VALUE ESTABLISHED BY THE DEPARTMENT OF REVENUE.

27 (2) THE PROPERTY THAT IS THE SUBJECT OF THE AGREEMENT MUST BE LOCATED OR INSTALLED IN AN URBAN  
28 RENEWAL AREA, INDUSTRIAL DISTRICT, AEROSPACE TRANSPORTATION AND TECHNOLOGY DISTRICT, OR ANY OTHER AREA  
29 OR DISTRICT THAT IS SUBJECT TO A TAX INCREMENT FINANCING PROVISION.

30 (3) THE MINIMUM VALUE ESTABLISHED BY THE AGREEMENT MAY BE FIXED OR MAY INCREASE OR DECREASE IN



1 LATER YEARS FROM THE INITIAL MINIMUM VALUE AS PROVIDED IN THE AGREEMENT.

2 (4) THE AGREEMENT CREATES A LIEN ON THE PROPERTY PURSUANT TO [SECTION 6 5] AND MUST BE FILED AND  
3 RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN EACH COUNTY IN WHICH THE PROPERTY OR ANY PART  
4 OF THE PROPERTY IS LOCATED. RECORDING AN AGREEMENT CONSTITUTES NOTICE OF THE AGREEMENT TO ANYONE WHO  
5 ACQUIRES ANY INTEREST IN THE PROPERTY THAT IS THE SUBJECT OF THE AGREEMENT, AND THE AGREEMENT IS BINDING  
6 UPON THE PERSON ACQUIRING THE INTEREST.

7 (5) AN AGREEMENT MADE PURSUANT TO SUBSECTION (1) MAY BE MODIFIED OR TERMINATED BY MUTUAL CONSENT  
8 OF THE CURRENT PARTIES TO THE AGREEMENT. MODIFICATION OR TERMINATION OF AN AGREEMENT MUST BE APPROVED  
9 BY THE GOVERNING BODY OF THE MUNICIPALITY. A DOCUMENT MODIFYING OR TERMINATING AN AGREEMENT MUST BE  
10 FILED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER IN EACH COUNTY IN WHICH THE PROPERTY OR ANY PART OF  
11 THE PROPERTY IS LOCATED.

12 (6) AN AGREEMENT ENTERED INTO PURSUANT TO SUBSECTION (1) OR MODIFIED PURSUANT TO SUBSECTION (5)  
13 TERMINATES ON THE EARLIEST OF:

14 (A) THE DATE ON WHICH CONDITIONS IN THE AGREEMENT FOR TERMINATION ARE SATISFIED;

15 (B) THE TERMINATION DATE SPECIFIED IN THE AGREEMENT; OR

16 (C) THE DATE WHEN THE TAX INCREMENT IS NO LONGER PAID TO THE MUNICIPALITY UNDER 7-15-4292.

17 (7) NOTHING IN THIS SECTION LIMITS A MUNICIPALITY'S AUTHORITY TO ENTER INTO CONTRACTS OTHER THAN TAX  
18 DEFICIENCY AGREEMENTS AS DESCRIBED IN THIS SECTION.

19  
20 NEW SECTION. **Section 5. ~~COUNTY TAX~~ TAX DEFICIENCY LIEN.** A MUNICIPALITY HAS A LIEN FOR TAX  
21 DEFICIENCY PAYMENTS AS DESCRIBED IN A PROPERLY FILED AGREEMENT FOR TAX DEFICIENCY PAYMENT PURSUANT TO  
22 [SECTION 5 4]. THE LIEN HAS THE SAME PRIORITY AS A LIEN FOR GENERAL PROPERTY TAXES. LIEN PROCEEDS MUST BE  
23 DISBURSED PURSUANT TO 7-15-4286(2).

24  
25 NEW SECTION. **Section 6. Codification instruction.** (1) [Section 4 5 4] is intended to be codified  
26 as an integral part of Title 7, chapter 15, part 42, and the provisions of Title 7, chapter 15, part 42, apply to  
27 [section 4 5 4].

28 (2) [SECTION 6 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 71, CHAPTER 3, PART 15, AND  
29 THE PROVISIONS OF TITLE 71, CHAPTER 3, PART 15, APPLY TO [SECTION 6 5].

1 ~~NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.~~

2

3 NEW SECTION. SECTION 7. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE JULY 1, 2005.

4

5 ~~NEW SECTION. Section 7. Retroactive applicability. [Section 2] applies retroactively, within the~~  
6 ~~meaning of 1-2-109, to the termination of tax increment provisions occurring after December 31, 2000.~~

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